



Michigan Commission on Law Enforcement Standards  
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## Military Call-Up of Law Enforcement Personnel

The nation's response to the attacks of September 11, 2001 and the war in Iraq have resulted in the call-up of many members of military reserve and National Guard units. MCOLES has received a number of inquiries regarding the certification status of law enforcement officers called up for active military duty.<sup>1</sup>

When a law enforcement officer is called up for active duty, MCOLES requires notification from the employing law enforcement agency. Under the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), military service does not create a separation from law enforcement employment. Therefore, law enforcement agencies should **not** use the *Notification of Employee Separation* form. Instead, **please make notification to MCOLES on agency letterhead, identifying the personnel involved by name and social security number and indicating the last date of paid law enforcement employment.**

The necessity for notification is based in the Law Enforcement Distribution (LED). Public Act 302 of 1982, as amended, only permits LED payments for "paid work hours." Hence, agencies employing officers who are called-up for active military service may not receive LED monies for those personnel until they return to paid law enforcement service.

The enactment of USERRA has changed the rules that existed at the time of "Desert Storm" call-ups for re-entering active law enforcement employment. Law enforcement officers may assert their rights under USERRA for either voluntary or involuntary call-ups. They must meet the following USERRA criteria.

- A. The officer must leave active employment for the purpose of active military service, and the employer must be given notice that the officer is leaving for that purpose. The law does not specify how much advance notice must be given, and so, the practical amount of notice would be, "as much as possible." The law specifies

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<sup>1</sup> This information is only a guideline for affected officers and law enforcement agencies. Detailed information concerning military call-ups can be found at the following web sites; [www.roa.org](http://www.roa.org), and [www.esgr.org](http://www.esgr.org). Telephone inquiries may be directed to the Reserve Officers Association (ROA) at (800) 809-9448 Ext. 713 or the National Committee for Employer Support of the Guard and Reserve (ESGR) at (800) 336-4590.

certain “military necessities” that may preclude this requirement. The notice should be in writing.

- B. The cumulative period of service, relating to a particular employer, must not exceed five years.
- C. The officer must be discharged from active duty under honorable conditions.
- D. The officer must make a timely application for re-entry in active law enforcement employment. Under USERRA, the deadline to report back to work or submit an application for reemployment depends on the duration of the period of active duty.
  - 1. A period of less than 31 days requires that the employee report back to work the next day.
  - 2. A period of 31-180 days requires that the employee report back to work or submit application for reemployment within 14 days.
  - 3. A period of 181 days or more requires that the employee report back to work or submit application for reemployment within 90 days.

MCOLCS has also received inquiries from law enforcement agencies regarding whether or not uniforms, badges, and issue equipment such as firearms should be collected from law enforcement personnel who are called-up for active military service. This is a matter of local policy.

USERRA rights, with regard to law enforcement employment, do not apply in situations involving pre-service candidates who have not attained employment as a Michigan law enforcement officer. However, **MCOLCS has made provisions to suspend its timelines for pre-service graduates who have been involuntarily called up for active military service prior to attaining law enforcement employment.** Under these circumstances, the candidate must have passed the State Certification Examination, and the military service must have been honorably served. To take advantage of this benefit, MCOLCS must be supplied with documentation of the dates of active military service. It will be most beneficial for the candidate, if at all possible, to notify MCOLCS in writing, including name, birth date, and social security number of an impending date of active duty.